

**REMARKS**

Claims 1 and 16 are currently being amended to further particularly point out and distinctly claim the subject matter which Applicant regards as the inventive subject matter, while claim 2 has been cancelled.

Claim 3 is currently being amended to correct the dependency thereof, since claim 2 has been cancelled. Additionally, claim 10 is currently being amended to correct an unintentional typographical error.

The amendments presented herein do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, the Examiner is respectfully requested to enter these amendments.

**1. Allowable Subject Matter**

The Office Action states,

Claims 2, 3, 7, 8, 13-15, and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**RESPONSE**

Applicant kindly thanks the Examiner for acknowledging claims 2, 3, 7, 8, 13-15, and 17-20 would be allowable if re-written in independent form. Accordingly, Applicant has amended claim 1 to recite the limitations of previously pending claim 2 therein, and

has cancelled claim 2.

In light of the above, claims 1 and 3-20 are therefore believed to be patentably distinguishable over the current double patenting rejections. As such, allowance of the claims is earnestly requested.

## **2. Rejection of Claims 1, 4-6, 9-12, and 16 for Double Patenting**

The Office Action states claims 1, 4-6, 9-12, and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent 6,468,938. In particular, the Office Action states,

Although the conflicting claims are not identical, they are not patentably distinct from each other because the pre-polymerized catalyst component are made of the same composition where titanium and magnesium dichloride compounds are disclosed, the specific titanium compound is disclosed, the alpha olefins are disclosed, specifically propylene, and dealcoholating adducts are disclosed, therefore the claimed process and the patented process are obvious variants of one another.

Applicants assert that a terminal disclaimer was filed over US 6,468,938 B; however, the examiner was not able to locate such a document in the instant application.

## **RESPONSE**

Applicant has amended claims 1 and 16 to recite the limitations of previously pending claim 2 therein, and has cancelled claim 2.

In light of the above, claims 1 and 3-20 are therefore believed to be patentably distinguishable over claims 1-2 of U.S. Patent

6,468,938. As such, allowance of the claims is earnestly requested.

**3. Withdraw of Previously filed Terminal Disclaimer**

Applicant previously submitted a Terminal Disclaimer in response to the double patenting rejection to U.S. Patent 6,399,533 outlined on page 5, line 27 - page 6, line 9 in the previously pending Office Action bearing a mailing date of November 16, 2005. In particular, the previously pending Office Action stated,

Claims 1, 4, 7, 8, 14, 15, 16 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-2, 4-5, 7-11, 13, 18-20 and 23 of U.S. Patent No. 6399533 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prepolymerized catalyst component are made of the same composition, where overlapping molar ratio ranges between transition metal and aluminum occur, where overlapping ranges for the surface area and pore diameter also occur.

It would have been obvious to one of ordinary skill in the art that the organic supports are identical or very similar and the catalyst composition requires titanium, aluminum and a halogen, which are described previously in the patent for olefin polymerization, therefore the claimed process and the patented process are obvious variants of one another.

However, as outlined *supra*, Applicant has amended currently pending claims 1 and 16 to include the limitations recited in claim 2, which was not subjected to a double patenting rejection to U.S. Patent 6,399,533. Therefore since claim 1 now recites the limitations of claim 2, the need for a Terminal Disclaimer to U.S. Patent 6,399,533 is negated. Accordingly, Applicant respectfully requests the Office to withdraw the previously filed Terminal Disclaimer to U.S. Patent 6,399,533. See MPEP §1490 VII and §1490

Serial No. 10/030,466

VII(A). A petition under 37 C.F.R. §1.182, with the requisite fee requesting the same, accompanies this response.

### CONCLUSION

Based upon the above amendments and remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw all rejections and allow all pending claims 1 and 3-20. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned practitioner if he has any questions or comments.

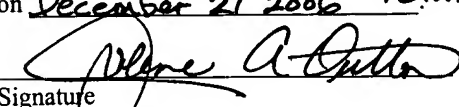
Respectfully submitted,

By: 

Jarrod N. Raphael  
Registration No. 55,566  
Customer No. 34872

Date: December 21, 2006  
Basell USA Inc.  
912 Appleton Road  
Elkton, MD 21921  
Telephone No.: 410-996-1750  
Fax No.: 410-996-1560

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop ~~Amendment~~, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on December 21 2006 Petitions

  
Signature

December 21 2006  
Date